

Impact of the Nicoli/Sargent Condominium Development on the Adjacent Single-Family Residences

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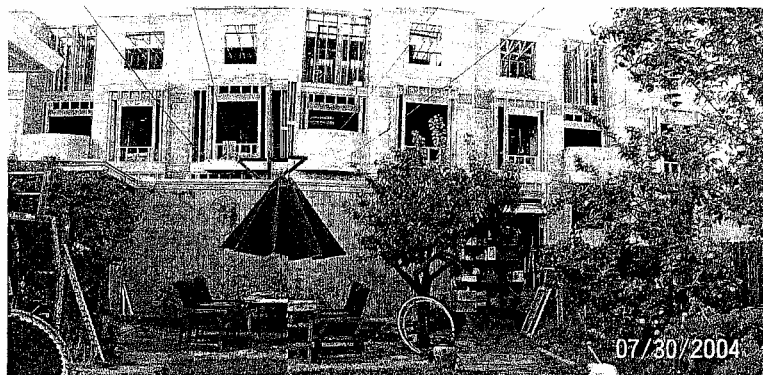


Figure 1 Spliced view of the development from the rear porch of my home.

Situation

On the 400 block of East Evelyn Avenue in Sunnyvale, a three and one-half story condominium development is under construction. Known as the Nicoli/Sargent condo development, this project reflects the worst example of civic malfeasance driven by the influence of the developer's almighty dollar. According to several people in the Planning Department, the Nicoli development represents the only project of its size built so closely to a single-family neighborhood in the city of Sunnyvale.

To allow this development to be built, the Sunnyvale Planning Department ignored or overlooked a plethora of the Sunnyvale Community Design Element's policies and guidelines in order to squeeze as large a development as possible into a totally inadequate and inappropriate space. The planning department recognized that the development conflicted with the city's goals, but temporarily changed the rules on the fly to achieve permit approval for the project.

Furthermore, several conditions for the development's permit approval were required by both the Sunnyvale City Council and Planning Commission and were also ignored, particularly regarding privacy mitigation for the single-family neighborhood adjacent to the south side of the project.

Downtown Specific Plan

Following are selected policies and guidelines from Sunnyvale's Downtown Specific Plan. These selections are also representative of the city's Community Design Sub-Element of the General Plan, excerpts of which follow at the end of this report.

The Goals and Policies of the Specific plan create the basic priorities for implementing the downtown vision...

- Protect and enhance existing neighborhoods.

D.1. Buffer single family neighborhoods from higher density residential or commercial uses through the use of lower building heights and privacy measures such as increased landscaping and reduction in windows along elevations that directly face single family properties.

D.3. Encourage intensification of specified high-density residential and commercial districts while maintaining the character and density of single family neighborhoods surrounding the downtown.

Building Facades:

- Use variable heights and roof forms to break up the building mass. Do not present a uniform block of building built to the maximum height limit.

City Council Report

Required developer actions for the Nicoli project based on directives from the City Council (excerpts from <http://sunnyvale.ca.gov/200105/rctcs/01-167.asp>):

"The Commission action also required modification to the project to further address privacy issues. The Commission action offered three alternative design change options to the applicant: (1) Redesign the project to meet the required 20 foot rear yard building setback; (2) Reverse the window placement of the courtyard with the rear (south) side of the building and maintain a minimum 18 foot rear yard setback; (3) maintain an 18 foot rear yard setback and provide enhanced (large tree) landscaping along the rear yard."

Ignored/violated. In the spring of 2004, three years after the development received approval, I visited with the project planner, Fred Bell, and looked at the existing landscape design. There was landscaping but none that fulfilled the enhanced landscape mitigation as required. None of the other options have been implemented.

"As noted earlier in this report, the project site is bordered on two sides with single family residential uses. In order to assist screening of the proposed building and to enhance privacy issues, **screening landscaping techniques will be employed along these property lines.** Condition of Approval No 7 requires coordination of the landscape plan with the City Arborist to ensure maximum practicable use of screening landscape in these areas."

Ignored/violated. I spoke with Leonard Dunn of the Arborist Office earlier this year. He said this requirement was never fulfilled.

"Single-family homes are located along the rear property line...The proposed structure is large, reaching a height of 43 feet. Staff has noted concern with potential privacy issues with multi-story windows overlooking existing back yards. The applicant has worked to reduce the size of windows overlooking properties to the rear and side. Due to the R-3 (Medium Density Residential) designation of these adjacent properties, future transition to multiple family residential at a density similar to the proposed project may occur."

Ignored/violated. No apparent window reduction has taken place (see Figure 1 photo) and compare to window sizes on the Evelyn Street side.

"The proposed project will be constructed of a type and at a scale similar to multiple family development in proximity to the project. However, adjacent property is currently occupied by single family residential use which is not compatible with the bulk and scale of the project. These single family uses under-utilize their existing multiple family zoning. Future transition of these properties may occur."

C1 Maintain diversity and individuality in style but be compatible with the character of the neighborhood.	The proposed project will be constructed of a type and at a scale similar to multiple family development in proximity to the project. However, adjacent property is currently occupied by single family residential use which is not compatible with the bulk and scale of the project. These single family uses under-utilize their existing multiple family zoning. Future transition of these properties may occur.
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Future transition to multiple family density is repeated several times. The planners have changed the rules on the fly to circumvent the recognized problems. This strategy is a convenient fabrication in conflict with the city's stated guidelines and policies. (See the Policies and Guidelines section at the end of this report). Nowhere in the Sunnyvale Downtown Specific Plan or the city's Community Design Sub-element of the General Plan does it allude to this notion about *future transition* being the basis of planning policy.

“The proposed project offers additional multi-family home ownership opportunities while providing a density and building mass transition from adjoining R-3 properties to higher density uses in the Specific Plan.”

In fact, zoning of adjoining R-3 properties has changed to lower R-2 density—why existing rules and guidelines should be followed rather than making them up spontaneously.

“Each of the deviations...have been discussed in the Special Development Permit section of this report. As the project plan evolved through several iterations, the applicant has modified the plan increasing setbacks, improving privacy to adjacent properties, adding architectural details and enhancing useable open space. Due, in part, to the unusual configuration of the site, deviations for front and rear yard setbacks remain. In addition, the project does not meet the required separation between buildings. “

“Staff believes that the deviations are justified in that they allow reasonable development of the site with a high quality multiple family project that includes enhanced architectural detail consistent with the Downtown Specific Plan. The proposed project offers additional multi-family home ownership opportunities while providing a density and building mass transition from adjoining R-3 properties to higher density uses in the Specific Plan. “

Any mitigation design is minimal, insignificant and unimplemented anyway. In several ways the Nicolli development is inconsistent with the DSP.

Balancing New Development versus Established Communities

The city has worthwhile goals to provide more housing and to create a robust downtown, but those goals must be tempered by the needs of the existing residential neighborhoods. From the city General Plan:

A.1.a. The City will review its General Plan to facilitate the creation of additional housing units and in doing such review, address the need to balance single family versus apartment and townhouse development.

A.1.b. The City will review the capacity of the infrastructure to accommodate any increase in housing intensity.

A.1.e. The City should consider allowing and encouraging residential densities higher than 45 units per acre, in certain areas of the City, *where appropriate* (my italics).

A.1.g. The City should continue efforts to balance the need for additional housing with other community values, such as: preserving the character of established neighborhoods, high quality design, and promoting a sense of identity in each neighborhood.

A.1.i. The City should promote the concept of open space and landscaping in the use and allowances of density and buildings, to preserve the quality of the City neighborhoods.

Conclusion

The DSP acknowledges the difficulties the downtown revamping will have on the neighborhoods.

"The vision for these districts can be quite different than the existing neighborhood character. There will be transition periods where new development is in conformance with the future character of the district but not compatible with surrounding development. This Specific Plan acknowledges that there will be some transitional incompatibilities during the course of development and that this is necessary in order to realize the future vision for the downtown."

However, this is not a justification for the *future transition to higher density* approach the Planning Department has taken. This would only make sense if the single-family residences impacted by the development were within the downtown specific plan area, which they are not. The city has delineated several ways to mitigate the impact of the downtown development on the neighborhoods, and there is no excuse for ignoring them other than laziness and arrogance.

The Planning Department clearly considers the City's Design Policies and Guidelines as they reference several of them in their report (quoted above). But in their zeal to gain permit approval for the Nicoli development, they contrived a reinterpretation of the policies and guidelines and ignored those that forced them to limit the scope of the development.

Are the city's policies and guidelines just nice words that are only referenced when convenient or is the city supposed to make every effort to follow them? Is there any accountability in the city when there is a renegade department whose actions are inconsistent with the city's stated policy? Are there consequences when city employees disregard required dictates by the City Council and Planning Commission?

The Planning Department went to extreme lengths and bent the rules to gain permit approval for the Nicoli development. I ask the city to go to equally extreme lengths and bend the rules to mitigate the overwhelming impact the development has on the adjacent single-family neighborhood. Those steps include:

1. Reduce window sizes and placement where overlooking the single-family neighborhood.
2. Construct a 15-foot high masonry fence like one that exists at Bristol Commons just a few blocks away.
3. Densely plant 40-foot tall mature trees between the development and the neighborhood.

Sunnyvale General Plan

The following excerpts from Community Design and Housing And Community Revitalization Sub-Elements of the city's General Plan reinforce the deviations between what should have happened and what did happen.

<http://sunnyvale.ca.gov/Departments/Community+Development/General+Plan/2/2.5.htm>

Policy 2.5A.2 Ensure that new development is compatible with the character of special districts and residential neighborhoods.

2.5A.2a. Maintain design guidelines and policies for new construction in historic districts, which define acceptable building styles, shapes, rooflines, colors, materials, fenestration and setbacks and develop new guidelines as needed.

2.5A.2b. Continue to maintain and develop zoning standards, which preserve the quality of residential neighborhoods.

2.5A.2c. Continue to encourage infill development or redevelopment which is compatible with the use, density, setbacks, height and, where possible, the predominant building style and size of the surrounding district or neighborhood.

2.5A.2d. Continue to identify and adopt methods of preserving historic resources and special districts.

Policy 2.5A.3 Support measures which enhance the identity of special districts and residential neighborhoods to create more variety in the physical environment.

2.5A.3a. Encourage diversity and develop programs to emphasize the unique features of special districts and neighborhoods.

2.5A.3e. Encourage new landmarks and features to distinguish districts and neighborhoods.

2.5A.3i. Maintain existing programs and study new programs which promote the maintenance and quality of residential neighborhoods.

Private Development

Goal 2.5C Ensure that buildings and related site improvements for private development are well designed and compatible with surrounding properties and districts.

Policy 2.5C.2 Review site plans to insure the design is compatible with the natural and surrounding built environment.

2.5C.2g. Consider studying areas where the street and building setback relationship could be improved.

2.5C.2h. Encourage new construction to be compatible with the open space characteristics between buildings in districts or neighborhoods.

2.5C.2i. Continue to require landscaped buffers on commercial or residential properties which provide adequate protection for adjoining residential properties.

2.5C.5c. Avoid buildings which do not have a similar scale or height as surrounding properties, except at gateways or for landmark structures.

2.5C.5f. Encourage new construction to be designed so that it minimizes the impact on the privacy of adjoining residential properties.

2/5C.5g. Avoid tall buildings which substantially shade adjoining residential properties.

2.5C.5h. Continue to require additional setbacks for new construction when necessary to preserve the light, air, views and privacy of adjoining residential properties.

Policy B.4. Ensure that new development and rehabilitation efforts promote quality design and harmonize with existing neighborhood surroundings.

B.4.a. The City should continue architectural and site review of private and public development to ensure that the design is sensitive to and compatible with existing neighborhood surroundings.

B.4.b. The City should study and propose design solutions to mitigate the effects of a combination of uses or a combination of uses of different intensities.

SITE DESIGN

New development shall adhere to the character of the existing neighborhood and be integrated into the surrounding development. New development shall not dominate or interfere with the established character of its neighborhood. Site design of projects shall be cohesive both functionally and visually.

SETTING

A1. New projects shall be compatible with their surrounding development in intensity, setbacks, building forms, material, color, and landscaping.

A3. Develop transition between projects with different uses and intensities to provide a cohesive visual and functional shift. Create transition by using appropriate setbacks, gradual building height, bulk, and landscaping.

BUILDING DESIGN

Buildings shall enhance the neighborhood and be harmonious in character, style, scale, color and materials with existing buildings in the neighborhood.

SCALE AND CHARACTER

B1. Break up large buildings into groups of smaller segments whenever possible, to appear smaller in mass and bulk.

B2. Adjacent buildings shall be compatible in height and scale.

B3. Buildings and additions shall not shade more than 10% of the structures or open space areas on adjacent properties for proper solar access.

B4. Buildings shall maintain similar horizontal and vertical proportions with the adjacent facades to maintain architectural unity.

B5. Step back upper stories of building 3 stories or taller from public roads and adjacent low scale development to reduce the bulk impact.

B6. Maintain the dominant existing scale of an area. Second story additions in a predominantly one story residential neighborhood should appear as one story.

B7. Placement of windows and openings on second story additions shall not create a direct line of sight into the living space or the back yard of adjacent properties to maintain privacy.

ARCHITECTURE AND DESIGN

C1. Maintain diversity and individuality in style but be compatible with the character of the neighborhood.

C2. In areas where no prevailing architectural style exist, maintain the general neighborhood character by the use of similar scale, forms, and materials providing that it enhances the neighborhood.

C18. Consider privacy in placement of windows on adjacent structures in residential areas. Stagger windows, use high, frosted, or no windows where privacy is a concern.

C19. Orient primary living areas in residential buildings toward private open space and views.